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File No. C (38) 145

Legal Dept

C **BRANCH**

Subject:— Procedure re-
Countersignature of ~~Bills~~
Bills and double claim of
fees to The advocate General

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File No. C (38) 145

Gen. 104 c.

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No. 1135

Office of the
Remembrancer of Legal Affairs,
Bombay Castle, 11th February 1944.

To

The Accountant General,
BOMBAY.

Subject:- Procedure regarding countersignature of bills preferred by the Law-Officers in Bombay.

.....

With reference to your letter No. D.A.III-27/Press 1995 dated the 9th October 1943, on the above subject, I have the honour to recall that this correspondence arose out of the discovery that the Government Pleader, High Court, and the Public Prosecutor for Bombay had both billed for the fees of the Advocate General in respect of the same item of work, and the bills were passed by this Department. The double claim was preferred out of a bona fide mistake on the part of the two officers concerned, each having assumed that as he was concerned in instructing the Advocate General, he was the proper officer to recover the Advocate General's fees from Government and pay them to him. This was a solitary instance of a double claim, and it was only rendered possible by the absence of a rule or convention providing which officer should submit the bill in such cases. It is proposed therefore to insert a rule in the Law Officers Rules to the effect when the Advocate General appears on the Appellate Side and is instructed by the Government Pleader, his fees should be drawn and paid to him by the Government Pleader; and in other cases by the Public Prosecutor or the Solicitors to Government where he is instructed by them. It is considered that a rule on these lines will at once prevent the Public Prosecutor's Office from making, and this office from entertaining a bill for the Advocate General's fees for appearance on the appellate side.

2 It is regretted that the registers maintained

in this office were found, on examination, not to correspond closely with those envisaged in your letter dated 4th August 1942. And upon a re-examination of the matter, I am of the opinion that to maintain registers on the lines suggested in your letter would require addition to the staff in this office. It also appears that the maintenance of such registers is not essential for the purpose of preventing a double claim of the nature abovesaid, and that the object in view can be achieved by the insertion of a rule on the lines indicated.

Id./..... 11/2/44

Remembrancer of Legal Affairs.

L.D.

Submitted.

2. This relates to the measures to be taken for avoidance of payment of double claims in respect of the same items of service, for it occurred in one instance that both the G.P., High Court, and the P.P., Bombay, billed for the fees of the Advocate General in one and the same case in a bona fide mistake on the part of the two officers concerned, each having assumed that as he was concerned in instructing the Advocate General, he was the proper officer to recover the Advocate General's fees.

3 To avoid such a contingency occurring again the A. at G. was suggesting the maintenance of Registers in a very elaborate form which could only be attempted to be done if addition at staff was available. It was therefore suggested to him that the purpose would be served if a new Rule is inserted in the L.O. Rules to the effect that when the Advocate General appears on the Appellate Side and is instructed by the Govt. Pleader, his fees should be drawn and paid to him by the Govt. Pleader, and in other cases, by the Public Prosecutor or the Solicitors to Govt. when he is instructed by them.

4 The Accountant General appears to have accepted the situation. The necessary new Rule 193 A is therefore now submitted for approval and issue.

Id./.... 18/8

A.L.R.
Id./-R.G.H. 28/8

D.S.
Id./ N.K.D. 28/8/44

Secy.
Rule as slightly amended.
Id./P.N.M. 29/8/44

A(H) Id./C.H.B. 30/8/44

Supdt. The pps now be passed on to B for necy. action.
Id./ J.V.B. S.A.S. Id./R.T.K. 4/9

Submitted with ref. to S.A.S.'s order dt. 4.9.44 on prepage.

2 The draft notification on p. 55 post as duly approved may now be sent to the Press for publication in part IV-A of the B.G.G. The requisite draft endorsement is put up herewith for signature.

3 Detailed instructions regarding printing and supply of correction slip will be given to the Press as soon as the notification appears in the Gazette and copies are to us by the Press.

4 An advance copy of the notification may be sent to the Acctt. General, Bombay. The requisite endorsement is also put up for signature.

Id./..... 7/9/44

S.S.

Id./..... 7/9

MR 27-7-56
4 Copies.

NOTIFICATION.

Legal Department,
Bombay Castle, 11th September 1944.

No. 6339 The Governor of Bombay is pleased to amend the Rules for the Conduct of Legal Affairs of Government as follows, namely:-

After rule 193 of the said rules, the following new rule shall be inserted, namely:-

"193A. Fees of Advocate General:- The fees of the Advocate General, when he appears on the Appellate Side of the High Court and is instructed by the Government Pleader, High Court, shall be drawn and paid to him by the Government Pleader, High Court, and in other cases, by the instructing Public Prosecutor for Bombay or the Solicitors to Government as the case may be".

By order of the Governor of Bombay.

Sd./ P.N.Koos,
Secretary to Government.

SHR 27-7-56
4 Copies.

SHA 31/7

SHS 31/7